THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No.17245 of 2007

Date 06-12-2007

Between:
B.C.Sanjeeva Reddy.

..... PETITIONER

AND

Assistant Director of Mines and Geology, Yerraguntla, Kadapa District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.17245 of 2007

ORDER:

Heard Sri Vedula Venkataramana, learned counsel representing the writ petitioner and learned Government Pleader for Industries representing respondents.

2. This Court issued Rule Nisi on 14-07-2007 and in WPMP.No.22008 of 2007, passed the following order:

> "Notice. Pending further orders, there shall be stay of forfeiture of bid amount pursuant to the impugned order dated 01-08-2007."

3. WVMP.No.2441 of 2007 is filed to vacate the interim order.

4. Sri Vedula Venkataramana, learned counsel for the writ petitioner, had taken this Court through the contents of the affidavit filed in support of the writ petition and would maintain that since the details were not furnished and under those circumstances, the writ petitioner had approached this Court and obtained an interim order. Learned counsel would also submit that inasmuch as necessary details had been furnished in the counter affidavit, at present, the writ petitioner is inclined to comply with the same.

5. Learned Government Pleader for Industries had taken this Court through the counter and would contend that inasmuch as the writ petitioner is inclined to comply with the conditions, which had been specified in the counter affidavit, the writ petition may be disposed of accordingly.

6. It is averred in the affidavit filed in support of the writ petition that pursuant to the auction held on 27-07-2007 for sand quarrying reaches of Kalluru and Chowduru villages of Proddatur Mandal, the petitioner became the highest bidder and as per the terms and conditions contained in G.O.Ms.No.84, dated 10-04-2007, he had deposited the entire bid amount of Rs.1,58,25,000/-. It is further

averred that the first respondent, vide letter dated 01-08-2007, had required the petitioner to furnish stamp duty of Rs.5,54,000/- in the form of Non-Judicial stamps for execution of the lease deed, in default, the bid amount paid would stand forfeited. Since no basis was disclosed by the respondents requiring to furnish Non-Judicial stamps for such an amount, the petitioner made a representation dated 06-08-2007 stating that the stamp duty demanded was not in accordance with law, that the lease deed may be executed on Rs.100/- Non-Judicial stamp, and also raised certain objections with regard to the requirements furnished in the letter of the first respondent dated 01-08-2007. Petitioner states that since the requirement of the first respondent about the stamp duty is untenable, he could not comply with the same and as the first respondent is threatening to forfeit the bid amount, he filed the present writ petition praying for appropriate directions.

7. In the counter affidavit filed by the first respondent, it is stated that the writ petition is not maintainable for non-joinder of proper parties i.e., the District Registrar and Sub-Registrar, as the petitioner was challenging the lease deed, which is a compulsory registerable document falling under Schedule IA of the Stamp Act and the Stamp duty is payable as per Article 31(c) of the Stamp Act. It is further stated that the petitioner was the highest bidder for quarrying of sand in Kallur and Chowdur villages of Proddatur Mandal, that he had paid Rs.39,56,250/-, along with Income Tax thereon, towards 25% of the knocked down amount and submitted original challans in his office on 31-07-2007. The District Collector, Kadapa, issued confirmation orders in favour of the petitioner, vide proceedings dated 01-08-2007, for right of quarrying of sand in Kallur and Chowdur villages requesting to pay the remaining 75% of the knocked down amount of Rs.1,18,68,750/- and Income Tax thereon along with security deposit amount of Rs.15,82,500/- (10% of the knocked amount) and stamp duty with a request to pay the above amounts within 7 days from the date of confirmation orders and execute the lease deed and had also

requested the petitioner to submit the following documents for executing the lease deed on or before
07-08-2007.

1. 70% of the knocked down amount of Rs.1,10,77,500/- towards Z.P.Head of Account.
2. 5% of the knocked down amount of Rs.7,91,250/- towards State Head of Account.
3. Income tax @ Rs.2,244% of Rs.2,66,335/-.
4. Security Deposit of Rs.15,82,50-0/-.
5. Stamp Duty of Rs.5,54,000/-.
6. Lease Deed For, G-19 copies.
7. Recent Colour Photographs.
8. Notarised Affidavit with regard to declaration of Assets.
9. Copy of valid VAT Registration Certificate.

8. Further, it is stated in the counter that the petitioner, vide letter dated 06-08-2007, had raised objections regarding security deposit and stamp duty and stated that he would pay Rs.1,00,000/- towards security deposit, and Rs.100/- towards stamp duty and in response thereto, the respondents, vide letter dated 06-08-2007, intimated to the petitioner as under:

> "As per Rule 9(2) of APMMC Rules, 1966, the petitioner had to pay the security deposit of 10% of the knocked down amount subject to minimum of Rs.1,00,000/- and in the instant case, the knocked down amount is Rs.1,58,25,000/-, then the 10% security deposit on the knocked down amount was arrived at Rs.15,82,500/- and requested to pay Rs.15,82,500/- towards security deposit."

9. It is also stated that execution of the lease deed on stamp duty of Rs.100/- was not correct as the lease falls under Article 31 of the Stamp Act. It is further stated that the office had charged the stamp duty 3% on bid amount of Rs.4,74,750/- and 5% on security deposit of Rs.15,82,500/-
i.e. Rs.79,125/-, totaling to Rs.5,53,875 or Rs.5,54,000/-".

10. It is further stated that the petitioner submitted challans for Rs.1,00,31,250/- towards 70% of knocked down amount towards Z.P.

funds and Rs.7,91,250/- towards State Head along with Income Tax of Rs.2,66,336/- on 07-08-2007 and that the petitioner had not paid the security deposit of Rs.15,82,500/- and stamp duty as required under the terms and conditions of auction. Further, it is stated that the petitioner had to file revision before the Government under Rule 35A of APMMC Rules, 1966, against the order passed by the respondents. Further, it is also stated that as per Rule 9(1), the successful bidder had to submit all documents within 7 days from the date of confirmation orders and execute the lease deed, that the petitioner had failed to pay security deposit of Rs.15,82,500/- and stamp duty of Rs.5,54,000/-, and if the successful bidder fails to pay the amount and fails to execute the lease deed in accordance with Rule 9(1), (2), (4) and (5), the amount paid would be forfeited to the Government by the confirming authority. It is further stated that the District Registrar, Kadapa, vide letter dated 30-08-2007, sought clarification of the amount to be collected towards stamp duty from the successful bidder and in response thereto, the District Registrar of Assurances, Kadapa, vide his letter dated 03-09-2007, stated that a premium, for a period of one year chargeable under 31(b) of Schedule IA of Indian Stamp Act, is 5% on the amount paid in advance on total rent and also chargeable under Article 31(c) of Schedule IA of Indian Stamp Act on the amount paid in addition to the rent, as deposited was 5% on the deposit, and as per the District Registration, the petitioner had to pay the following amounts.

Premium amount U/s. 31(b) Rs.1,58,25,000/- at 5% Rs.7,91,250/-
Deposit amount as per 31(c) Rs.15,82,500/- at 5% Rs. 79,125/-
Total Rs.8,70,375/-

11. It is further stated that since it is a lease agreement, it is not possible to execute the lease on stamp duty of Rs.100/- only and according to the instructions of the District Registrar, Kadapa, the petitioner had to pay Rs.8,70375/- towards stamp duty.

12. These are the respective stands taken by the parties. Inasmuch as the writ petitioner is inclined to comply with the

amounts, which had been specified in the counter affidavit, the writ petition is disposed of permitting the petitioner to comply with the directions within a period of two weeks from the date of receipt of a copy of this order and on such deposit being made, the lease deed to be executed in accordance with law and in view of the peculiar facts, the writ petitioner to exploit the sand from the date of execution of the lease deed.

13. The Writ Petition is disposed of accordingly. No order as to costs.

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06-12-2007

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